

FILED IN OPEN COURT
ON 7/23/08
Dennis P. Iavarone, Clerk
US District Court
Eastern District of NC

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:08cr45-BO

UNITED STATES OF AMERICA)
)
 v.)
)
ERIC LEE SPIWAK)
)

INDICTMENT

The Grand Jury charges that:

COUNT ONE

(Attempt to entice a child to engage in illegal sexual conduct)

During a period of time beginning on or about September 6, 2006, and continuing until on or about September 8, 2006, ERIC LEE SPIWAK, the defendant herein, did knowingly attempt to persuade, induce, and entice an individual under the age of eighteen (18), to engage in illegal sexual conduct; to wit, a girl he believed to be a fourteen (14) year old child, to engage in illegal sexual conduct, and did so using a facility and means of interstate commerce, to wit, an internet-connected computer, all in violation of Title 18, United States Code, Section 2422(b).

COUNT TWO

(Possession of Child Pornography)

On or about September 9, 2006, in the Eastern District of North Carolina, ERIC LEE SPIWAK, the defendant herein, did knowingly possess one or more matters, that is, computer hard drives and computer media containing digital and computer images, the production of which involved the use of a minor engaging in

sexually explicit conduct, and which images visually depicted such conduct; the images had been mailed, shipped and transported in interstate and foreign commerce, and were produced using materials which had been mailed, shipped, or transported in interstate and foreign commerce, by any means including by computer; all in violation of Title 18, United States Code, Section 2252(a)(4)(B).

FORFEITURE ALLEGATION

If convicted of one or more of the offenses set forth in Count Two above, ERIC LEE SPIWAK, the defendant herein, shall forfeit to the United States -

(1) any visual depiction or book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of the offense(s);

(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from the offense(s); and

(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense(s)

- all pursuant to Title 18, United States Code, Section 2253(a).

If any of the above-described forfeitable property, as a result of any act or omission of the defendant --

(1) cannot be located upon the exercise of due diligence;

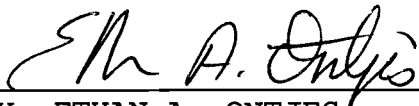
(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty; it is the intent of the United States, pursuant to Title 18, United States Code, Section 2253(o), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

GEORGE E.B. HOLDING
United States Attorney



BY: ETHAN A. ONTJES
Assistant United States Attorney
Criminal Division

